

IN THE CIRCUIT COURT  
SAINT LOUIS COUNTY  
STATE OF MISSOURI  
ASSOCIATE DIVISION

RACHEL SAUNDERS,

Plaintiff,

v.

PORTER HEALTH & FITNESS, LLC ET AL

Defendant

)  
)  
)  
) Cause No. 18SL-AC02068  
)  
) Division 44T  
)  
)  
)

**DISMISSAL AS TO DEFENDANT PORTER HEALTH & FITNESS, LLC**

COMES NOW, Plaintiff, by and through his attorney of record, and dismisses the above cause of action against the first Defendant Porter Health & Fitness, LLC, only, with prejudice. Plaintiff continues this cause of action against the second named Defendant 9Round Franchising, LLC.

Respectfully submitted by,

**PONTELLO & BRESSLER, LLC**

/s/ Dominic M. Pontello

DOMINIC M. PONTELLO. #60947

ISAAC J. BRESSLER. #66379

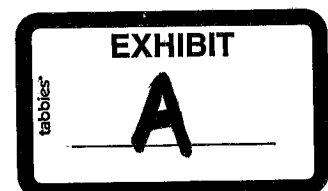
406 Boones Lick Rd

St. Charles, Missouri 63301

(636) 896-4170

(636) 246-0141 facsimile

*Attorneys for Plaintiff*



IN THE CIRCUIT COURT  
SAINT LOUIS COUNTY  
STATE OF MISSOURI  
ASSOCIATE DIVISION

**FILED**

MAY 29 2018

JOAN M. GILMER  
CIRCUIT CLERK, ST LOUIS COUNTY

RACHEL SAUNDERS,

Plaintiff,

v.

PORTER HEALTH & FITNESS, LLC ET AL

Defendant

)  
)  
) Cause No. 18SL-AC02068  
)  
) Division 44T  
)  
)  
)

**DISMISSAL AS TO DEFENDANT PORTER HEALTH & FITNESS, LLC**

COMES NOW, Plaintiff, by and through his attorney of record, and dismisses the above cause of action against the first Defendant Porter Health & Fitness, LLC, only, with prejudice. Plaintiff continues this cause of action against the second named Defendant 9Round Franchising, LLC.

Respectfully submitted by,

**PONTELLO & BRESSLER, LLC**

/s/ Dominic M. Pontello

DOMINIC M. PONTELLO. #60947

ISAAC J. BRESSLER. #66379

406 Boones Lick Rd

St. Charles, Missouri 63301

(636) 896-4170

(636) 246-0141 facsimile

*Attorneys for Plaintiff*

*So Ordered  
Rich Stunt  
5/29/18*



## IN THE 21ST JUDICIAL CIRCUIT COURT, ST. LOUIS COUNTY, MISSOURI

Judge or Division: RICHARD M STEWART	Case Number: 18SL-AC02068
Plaintiff/Petitioner: RACHEL SAUNDERS	Plaintiff's/Petitioner's Attorney/Address or Pro Se's Address/Telephone Number: DOMINIC M. PONTELLO 406 BOONES LICK ROAD SAINT CHARLES, MO 63301 (636) 896-4170
Defendant/Respondent: PORTER HEALTH & FITNESS, LLC DBA: 9ROUND WILDWOOD	
Nature of Suit: AC Other Tort	Date, Time and Location of Court Appearance: 26-JUN-2018 09:00 AM RM. 286 NORTH, DIV 44 ST LOUIS COUNTY COURT BUILDING 105 SOUTH CENTRAL AVENUE CLAYTON, MO 63105

(Date File Stamp)

**Summons for Personal Service Outside the State of Missouri**  
(Associate Division Cases)

The State of Missouri to: 9ROUND FRANCHISING, LLC

Alias:

NATIONAL CORP. RESEARCH, LTD.  
2 OFFICE PARK COURT, SUITE 103  
COLUMBIA, SC 29223

COURT SEAL OF



ST. LOUIS COUNTY

You are summoned to appear before this Circuit Court, Associate Division on the date, time and location above, to answer the allegation in the petition filed by the above-named Plaintiff/Petitioner, a copy of which is attached. If you fail to appear at the time and place stated in this summons, judgment by default will be taken against you for the relief demanded in the petition.

**SPECIAL NEEDS:** If you have special needs addressed by the Americans With Disabilities Act, please notify the Office of the Circuit Clerk at 314-615-8029, FAX 314-615-8739 or TTY at 314-615-4567, at least three business days in advance of the court proceeding.

ISSUE DATE: 05/21/2018

Date

*John P. Dilling*  
Clerk

Further Information:  
JB

**Officer's or Server's Affidavit of Service**

**Note to serving officer:** Service must not be made less than ten days nor more than sixty days from the date the Defendant/Respondent is to appear in court.

I certify that:

1. I am authorized to serve process in civil actions within the state or territory where the above summons was served.
2. My official title is \_\_\_\_\_ of \_\_\_\_\_ County, \_\_\_\_\_ (state).
3. I have served the above summons by: (check one)
  - ☐ delivering a copy of the summons and a copy of the petition to the Defendant/Respondent.
  - ☐ leaving a copy of the summons and a copy of the petition at the dwelling place or usual abode of the Defendant/Respondent with \_\_\_\_\_, a person of the Defendant's/Respondent's family over the age of 15 years.
  - ☐ (for service on a corporation) delivering a copy of the summons and a copy of the petition to \_\_\_\_\_ (name) \_\_\_\_\_ (title).
  - ☒ other (describe) 9 Round Franchising, LLC, c/o National Corporate Research, LTD, R/a \_\_\_\_\_

Served at 2 OFFICE PARK COURT SUITE 103, Columbia, SC 29223 (address)  
in Richland County, South Carolina (state), on 5/24/2018 (date) at 8:15 am (time).

Stacey C. Rose

Printed Name of Sheriff or Server

Signature of Sheriff or Server

Subscribed and Sworn to before me this 5/24/18 (date).

- I am: (check one)
- ☐ the clerk of the court of which affiant is an officer.
  - ☐ the judge of the court of which affiant is an officer.
  - ☐ authorized to administer oaths in the state in which the affiant served the above summons. (use for out-of-state officer)
  - ☒ authorized to administer oaths. (use for court-appointed server)

(Seal)

*Karen M. Ruch* Notary Public  
Signature and Title

	IN THE CIRCUIT COURT	)
	SAINT LOUIS COUNTY	)
	STATE OF MISSOURI	)
	ASSOCIATE DIVISION	)
RACHEL SAUNDERS,		)
		)
Plaintiff,		)
		) Cause No. 18SL-AC02068
v.		)
		) Division 44T
PORTER HEALTH & FITNESS, LLC ET AL		)
		)
Defendant		)

**REQUEST TO WITHDRAW ALIAS SUMMONS**

**COMES NOW**, undersigned counsel, pursuant to Local Rules, and hereby requests that the following alias summons be withdrawn because they expired before service:

(1) 9ROUND FRANCHISING, LLC

Respectfully submitted by,

Date 5/21/2018

**PONTELLO & BRESSLER**  
/s/ Dominic M. Pontello  
DOMINIC M. PONTELLO. #60947  
Pontello & Bressler  
406 Boones Lick Rd  
St. Charles, Missouri 63301  
(636) 896-4170  
(636) 246-0141 facsimile

*Attorney for Plaintiff*



## IN THE 21ST JUDICIAL CIRCUIT COURT, ST. LOUIS COUNTY, MISSOURI

Judge or Division: RICHARD M STEWART	Case Number: 18SL-AC02068
Plaintiff/Petitioner: RACHEL SAUNDERS	Plaintiff's/Petitioner's Attorney/Address or Pro Se's Address/Telephone Number: DOMINIC M. PONTELLO 406 BOONES LICK ROAD SAINT CHARLES, MO 63301 (636) 896-4170
Defendant/Respondent: PORTER HEALTH & FITNESS, LLC DBA: 9ROUND WILDWOOD	
Nature of Suit: AC Other Tort	Date, Time and Location of Court Appearance: 26-JUN-2018 09:00 AM RM. 286 NORTH, DIV 44 ST LOUIS COUNTY COURT BUILDING 105 SOUTH CENTRAL AVENUE CLAYTON, MO 63105

(Date File Stamp)

**Summons for Personal Service Outside the State of Missouri**  
(Associate Division Cases)

The State of Missouri to: 9ROUND FRANCHISING, LLC

Alias:

NATIONAL CORP. RESEARCH, LTD.  
2 OFFICE PARK COURT, SUITE 103  
COLUMBIA, SC 29223

COURT SEAL OF



ST. LOUIS COUNTY

You are summoned to appear before this Circuit Court, Associate Division on the date, time and location above, to answer the allegation in the petition filed by the above-named Plaintiff/Petitioner, a copy of which is attached. If you fail to appear at the time and place stated in this summons, judgment by default will be taken against you for the relief demanded in the petition.

**SPECIAL NEEDS:** If you have special needs addressed by the Americans With Disabilities Act, please notify the Office of the Circuit Clerk at 314-615-8029, FAX 314-615-8739 or TTY at 314-615-4567, at least three business days in advance of the court proceeding.

ISSUE DATE: 05/21/2018

Date

*Joan P. Delaney*  
Clerk

Further Information:  
JB

**Officer's or Server's Affidavit of Service**

**Note to serving officer:** Service must not be made less than ten days nor more than sixty days from the date the Defendant/Respondent is to appear in court.

I certify that:

- I am authorized to serve process in civil actions within the state or territory where the above summons was served.
- My official title is \_\_\_\_\_ of \_\_\_\_\_ County, \_\_\_\_\_ (state).
- I have served the above summons by: (check one)
  - ☐ delivering a copy of the summons and a copy of the petition to the Defendant/Respondent.
  - ☐ leaving a copy of the summons and a copy of the petition at the dwelling place or usual abode of the Defendant/Respondent with \_\_\_\_\_, a person of the Defendant's/Respondent's family over the age of 15 years.
  - ☐ (for service on a corporation) delivering a copy of the summons and a copy of the petition to \_\_\_\_\_ (name) \_\_\_\_\_ (title).
  - ☐ other (describe) \_\_\_\_\_.

Served at \_\_\_\_\_ (address)  
in \_\_\_\_\_ County, \_\_\_\_\_ (state), on \_\_\_\_\_ (date) at \_\_\_\_\_ (time).

Printed Name of Sheriff or Server

Signature of Sheriff or Server

Subscribed and Sworn to before me this \_\_\_\_\_ (date).

I am: (check one)

- ☐ the clerk of the court of which affiant is an officer.
- ☐ the judge of the court of which affiant is an officer.
- ☐ authorized to administer oaths in the state in which the affiant served the above summons. (use for out-of-state officer)
- ☐ authorized to administer oaths. (use for court-appointed server)

(Seal)

Signature and Title

**Summons Fees, if applicable**

Summons \$ \_\_\_\_\_  
Non Est \$ \_\_\_\_\_  
Mileage \$ \_\_\_\_\_ (\_\_\_\_\_ miles @ \$ .\_\_\_\_\_ per mile)  
Total \$ \_\_\_\_\_

See the following page for directions to clerk and to officer making return on service of summons.

**Directions to Clerk**

Personal service outside the State of Missouri is permitted only on the conditions set out in Rule 54. The clerk should insert in the summons the names of only the Defendant/Respondent or Defendants/Respondents who are to be personally served by the officer to whom the summons is delivered. The summons should be signed by the clerk or deputy clerk under the seal of the court and a copy of the summons and a copy of the motion and/or petition for each Defendant/Respondent should be mailed along with the original summons to the officer who is to make service. The copy of the summons may be a carbon or other copy and should be signed and sealed in the same manner as the original but it is unnecessary to certify that the copy is a true copy. The copy of the motion and/or petition may be a carbon or other copy and should be securely attached to the copy of the summons but need not be certified a true copy. If the Plaintiff/Petitioner has no attorney, Plaintiff's/Petitioner's address and telephone number should be stated in the appropriate field in the summons. This form is not for use in attachment actions. (See Rule 54.06, 54.07 and 54.14)

**Directions to Officer Making Return on Service of Summons**

A copy of the summons and a copy of the motion and/or petition must be served on each Defendant/Respondent. If any Defendant/Respondent refuses to receive the copy of the summons and motion and/or petition when offered to him, the return shall be prepared to show the offer of the officer to deliver the summons and motion and/or petition and the Defendant's/Respondent's refusal to receive the same.

Service shall be made: (1) On Individual. On an individual, including an infant or incompetent person not having a legally appointed guardian, by delivering a copy of the summons and motion and/or petition to the individual personally or by leaving a copy of the summons and motion and/or petition at the individual's dwelling house or usual place of abode with some person of the family over 15 years of age, or by delivering a copy of the summons and motion and/or petition to an agent authorized by appointment or required by law to receive service of process; (2) On Guardian. On an infant or incompetent person who has a legally appointed guardian, by delivering a copy of the summons and motion and/or petition to the guardian personally; (3) On Corporation, Partnership or Other Unincorporated Association. On a corporation, partnership or unincorporated association, by delivering a copy of the summons and motion and/or petition to an officer, partner, or managing or general agent, or by leaving the copies at any business office of the Defendant/Respondent with the person having charge thereof or by delivering copies to its registered agent or to any other agent authorized by appointment or required by law to receive service of process; (4) On Public or Quasi-Public Corporation or Body. On a public, municipal, governmental or quasi-public corporation or body in the case of a county, to the mayor or city clerk or city attorney in the case of a city, to the chief executive officer in the case of any public, municipal, governmental, or quasi-public corporation or body or to any person otherwise lawfully so designated.

Service may be made by an officer or deputy authorized by law to serve process in civil actions within the state or territory where such service is made.

Service may be made in any state or territory in the United States. If served in a territory, substitute the word "territory" for the word "state."

The officer making the service must swear an affidavit before the clerk, deputy clerk, or judge of the court of which the person is an officer or other person authorized to administer oaths. This affidavit must state the time, place, and manner of service, the official character of the affiant, and the affiant's authority to serve process in civil actions within the state or territory where service is made.

Service must not be made less than ten days nor more than sixty days from the date the Defendant/Respondent is to appear in court. The return should be made promptly, and in any event so that it will reach the Missouri Court within 30 days after service.



	IN THE CIRCUIT COURT	)
	SAINT LOUIS COUNTY	)
	STATE OF MISSOURI	)
	ASSOCIATE DIVISION	)
RACHEL SAUNDERS,		)
		)
Plaintiff,		)
		) Cause No. 18SL-AC02068
v.		)
		) Division 44T
PORTER HEALTH & FITNESS, LLC ET AL		)
		)
Defendant		)

**REQUEST FOR ALIAS SUMMONS**

**COMES NOW**, undersigned counsel, pursuant to Local Rules, and hereby requests that an alias summons be issued by the circuit clerk in this case, because the first summons expired before service. I am requesting an alias summons be issued for the following defendants:

(1) 9ROUND FRANCHISING, LLC

Respectfully submitted by,

Date 5/21/2018

**PONTELLO & BRESSLER**  
/s/ Dominic M. Pontello  
DOMINIC M. PONTELLO, #60947  
Pontello & Bressler  
406 Boones Lick Rd  
St. Charles, Missouri 63301  
(636) 896-4170  
(636) 246-0141 facsimile

*Attorney for Plaintiff*



	IN THE CIRCUIT COURT	
	SAINT LOUIS COUNTY	
	STATE OF MISSOURI	
	ASSOCIATE DIVISION	
RACHEL SAUNDERS,	)	
	)	
Plaintiff,	)	
	)	Cause No. 18SL-AC02068
v.	)	
	)	Division 44T
PORTER HEALTH & FITNESS, LLC ET AL	)	
	)	
Defendant	)	

**MOTION FOR CONTINUANCE**

COMES NOW Plaintiff, Rachel Saunders, and respectfully requests that the above cause be continued to the May 22, 2018 9:00 AM call docket.

Respectfully submitted,

Pontello & Bressler, LLC

/s/Dominic M. Pontello  
DOMINIC M. PONTELLO. #60947  
406 Boones Lick Rd  
St. Charles, Missouri 63301  
(636) 896-4170  
(636) 246-0141 facsimile

*Attorney for Plaintiff*

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that a true copy of the foregoing was served on the clerk of court via e-filing, this 24th Day of April, 2018.

/s/ Dominic M. Pontello

IN THE CIRCUIT COURT  
SAINT LOUIS COUNTY  
STATE OF MISSOURI  
ASSOCIATE DIVISION

RACHEL SAUNDERS, )  
 )  
Plaintiff, )  
 ) Cause No. 18SL-AC02068  
v. )  
 ) Division 44T  
PORTER HEALTH & FITNESS, LLC ET AL )  
 )  
Defendant )

**REQUEST TO WITHDRAW ALIAS SUMMONS**

**COMES NOW**, undersigned counsel, pursuant to Local Rules, and hereby requests that the following alias summons be withdrawn because they expired before service:

(1) 9ROUND FRANCHISING, LLC

Respectfully submitted by,

Date 4/23/2018

**PONTELLO & BRESSLER**  
/s/ Dominic M. Pontello  
DOMINIC M. PONTELLO. #60947  
Pontello & Bressler  
406 Boones Lick Rd  
St. Charles, Missouri 63301  
(636) 896-4170  
(636) 246-0141 facsimile

*Attorney for Plaintiff*



## IN THE 21ST JUDICIAL CIRCUIT COURT, ST. LOUIS COUNTY, MISSOURI

Judge or Division: RICHARD M STEWART	Case Number: 18SL-AC02068
Plaintiff/Petitioner: RACHEL SAUNDERS	Plaintiff's/Petitioner's Attorney/Address or Pro Se's Address/Telephone Number: DOMINIC M. PONTELLO 406 BOONES LICK ROAD SAINT CHARLES, MO 63301 (636) 896-4170
Defendant/Respondent: PORTER HEALTH & FITNESS, LLC DBA: 9ROUND WILDWOOD	
Nature of Suit: AC Other Tort	Date, Time and Location of Court Appearance: 22-MAY-2018 09:00 AM RM. 286 NORTH, DIV 44T ST LOUIS COUNTY COURT BUILDING 105 SOUTH CENTRAL AVENUE CLAYTON, MO 63105

(Date File Stamp)

**Summons for Personal Service Outside the State of Missouri**  
(Associate Division Cases)

The State of Missouri to: 9ROUND FRANCHISING, LLC

Alias:

NATIONAL CORP. RESEARCH, LTD.  
2 OFFICE PARK COURT, SUITE 103  
COLUMBIA, SC 29223

COURT SEAL OF



ST. LOUIS COUNTY

You are summoned to appear before this Circuit Court, Associate Division on the date, time and location above, to answer the allegation in the petition filed by the above-named Plaintiff/Petitioner, a copy of which is attached. If you fail to appear at the time and place stated in this summons, judgment by default will be taken against you for the relief demanded in the petition.

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ISSUE DATE: 04/23/2018

Date

*Joan P. Delaney*  
Clerk

Further Information:  
JB

**Officer's or Server's Affidavit of Service**

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I certify that:

- I am authorized to serve process in civil actions within the state or territory where the above summons was served.
- My official title is \_\_\_\_\_ of \_\_\_\_\_ County, \_\_\_\_\_ (state).
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  - ☐ (for service on a corporation) delivering a copy of the summons and a copy of the petition to \_\_\_\_\_ (name) \_\_\_\_\_ (title).
  - ☐ other (describe) \_\_\_\_\_

Served at \_\_\_\_\_ (address)  
in \_\_\_\_\_ County, \_\_\_\_\_ (state), on \_\_\_\_\_ (date) at \_\_\_\_\_ (time).

Printed Name of Sheriff or Server

Signature of Sheriff or Server

Subscribed and Sworn to before me this \_\_\_\_\_ (date).

- I am: (check one)
- ☐ the clerk of the court of which affiant is an officer.
  - ☐ the judge of the court of which affiant is an officer.
  - ☐ authorized to administer oaths in the state in which the affiant served the above summons. (use for out-of-state officer)
  - ☐ authorized to administer oaths. (use for court-appointed server)

(Seal)

Signature and Title

**Summons Fees, if applicable**

Summons \$ \_\_\_\_\_  
Non Est \$ \_\_\_\_\_  
Mileage \$ \_\_\_\_\_ ( \_\_\_\_\_ miles @ \$ . \_\_\_\_\_ per mile)  
Total \$ \_\_\_\_\_

See the following page for directions to clerk and to officer making return on service of summons.

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Service shall be made: (1) On Individual. On an individual, including an infant or incompetent person not having a legally appointed guardian, by delivering a copy of the summons and motion and/or petition to the individual personally or by leaving a copy of the summons and motion and/or petition at the individual's dwelling house or usual place of abode with some person of the family over 15 years of age, or by delivering a copy of the summons and motion and/or petition to an agent authorized by appointment or required by law to receive service of process; (2) On Guardian. On an infant or incompetent person who has a legally appointed guardian, by delivering a copy of the summons and motion and/or petition to the guardian personally; (3) On Corporation, Partnership or Other Unincorporated Association. On a corporation, partnership or unincorporated association, by delivering a copy of the summons and motion and/or petition to an officer, partner, or managing or general agent, or by leaving the copies at any business office of the Defendant/Respondent with the person having charge thereof or by delivering copies to its registered agent or to any other agent authorized by appointment or required by law to receive service of process; (4) On Public or Quasi-Public Corporation or Body. On a public, municipal, governmental or quasi-public corporation or body in the case of a county, to the mayor or city clerk or city attorney in the case of a city, to the chief executive officer in the case of any public, municipal, governmental, or quasi-public corporation or body or to any person otherwise lawfully so designated.

Service may be made by an officer or deputy authorized by law to serve process in civil actions within the state or territory where such service is made.

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The officer making the service must swear an affidavit before the clerk, deputy clerk, or judge of the court of which the person is an officer or other person authorized to administer oaths. This affidavit must state the time, place, and manner of service, the official character of the affiant, and the affiant's authority to serve process in civil actions within the state or territory where service is made.

Service must not be made less than ten days nor more than sixty days from the date the Defendant/Respondent is to appear in court. The return should be made promptly, and in any event so that it will reach the Missouri Court within 30 days after service.

In the  
**CIRCUIT COURT**  
Of St. Louis County, Missouri



For File Stamp Only

RACHEL SAUNDERS  
Plaintiff/Petitioner

April 23, 2018

Date \_\_\_\_\_

18SL-AC02068  
Case Number

44T  
Division

**VS.**

PORTER HEALTH & FITNESS, LLC, ET AL  
Defendant/Respondent

## REQUEST FOR APPOINTMENT OF PROCESS SERVER

Comes now PLAINTIFF RACHEL SAUNDERS, pursuant  
Requesting Party

to Local Rule 28, and at his/her/its own risk requests the appointment of the Circuit Clerk of

Name of Process Server	Address	Telephone

37 Arborland Court Columbia, SC 29212		
Name of Process Server	Address or in the Alternative	Telephone

803-212-8831		
Name of Process Server	Address or in the Alternative	Telephone

Natural person(s) of lawful age to serve the summons and petition in this cause on the below named parties. This appointment as special process server does not include the authorization to carry a concealed weapon in the performance thereof.

**SERVE:**  
9 Round Franchising, LLC, c/o National Corporate Research, LTD, R/a  
Name 2 Office Park Court Suite 103  
Address Columbia, SC 29223  
City/State/Zip

**SERVE:**

---

Name

---

Address

---

City/State/Zip

**SERVE:**

---

Name

---

Address

---

City/State/Zip

**SERVE:**

---

Name

---

Address

---

City/State/Zip

Appointed as requested:  
**JOAN M. GILMER**, Circuit Clerk

By /s/ Jasna Bektic  
Deputy Clerk  
04/23/2018

Date \_\_\_\_\_

/S/ DOMINIC PONTELLO  
Signature of Attorney/Plaintiff/Petitioner  
60947  
Bar No.  
406 BOONES LICK RD. ST CHARLES, MO 63301  
Address  
(636) 896-4170 (636) 246-0141  
Phone No. Fax No.

IN THE CIRCUIT COURT  
SAINT LOUIS COUNTY  
STATE OF MISSOURI  
ASSOCIATE DIVISION

RACHEL SAUNDERS, )  
 )  
Plaintiff, )  
 ) Cause No. 18SL-AC02068  
v. )  
 ) Division 44T  
PORTER HEALTH & FITNESS, LLC ET AL )  
 )  
Defendant )

**REQUEST FOR ALIAS SUMMONS**

**COMES NOW**, undersigned counsel, pursuant to Local Rules, and hereby requests that an alias summons be issued by the circuit clerk in this case, because the first summons expired before service. I am requesting an alias summons be issued for the following defendants:

(1) 9ROUND FRANCHISING, LLC

Respectfully submitted by,

Date 4/23/2018

**PONTELLO & BRESSLER**  
/s/ Dominic M. Pontello  
DOMINIC M. PONTELLO. #60947  
Pontello & Bressler  
406 Boones Lick Rd  
St. Charles, Missouri 63301  
(636) 896-4170  
(636) 246-0141 facsimile

*Attorney for Plaintiff*



In the  
**CIRCUIT COURT**  
Of St. Louis County, Missouri



For File Stamp Only

RACHEL SAUNDERS  
Plaintiff/Petitioner

VS.

PORTER HEALTH & FITNESS, LLC, ET AL  
Defendant/Respondent

April 23, 2018

Date \_\_\_\_\_

18SL-AC02068

Case Number

44T

Division

# REQUEST FOR APPOINTMENT OF PROCESS SERVER

Comes now PLAINTIFF RACHEL SAUNDERS, pursuant  
Requesting Party

to Local Rule 28, and at his/her/its own risk requests the appointment of the Circuit Clerk of

<u>Grindstone Process Servers, Stacey Rose</u>		
Name of Process Server	Address	Telephone

37 Arborland Court Columbia, SC 29212		
Name of Process Server	Address or in the Alternative	Telephone

803-212-8831		
Name of Process Server	Address or in the Alternative	Telephone

Natural person(s) of lawful age to serve the summons and petition in this cause on the below named parties. This appointment as special process server does not include the authorization to carry a concealed weapon in the performance thereof.

SERVE:

9 Round Franchising, LLC, c/o National Corporate Research, LTD, R/a  
Name 2 Office Park Court Suite 103  
Address Columbia, SC 29223  
City/State/Zip

SERVE:

Name \_\_\_\_\_

Address \_\_\_\_\_

City/State/Zip \_\_\_\_\_

Appointed as requested:

**JOAN M. GILMER**, Circuit Clerk

By \_\_\_\_\_  
Deputy Clerk

Date \_\_\_\_\_

SERVE:

Name \_\_\_\_\_

Address \_\_\_\_\_

City/State/Zip \_\_\_\_\_

SERVE:

Name \_\_\_\_\_

Address \_\_\_\_\_

City/State/Zip \_\_\_\_\_

/S/ DOMINIC PONTELLO  
Signature of Attorney/Plaintiff/Petitioner  
60947  
Bar No.  
406 BOONES LICK RD. ST CHARLES, MO 63301  
Address  
(636) 896-4170 (636) 246-0141  
Phone No. Fax No.

**IN THE CIRCUIT COURT OF ST. LOUIS COUNTY  
STATE OF MISSOURI**

RACHEL SAUNDERS,	)	
	)	
Plaintiff,	)	
	)	
v.	)	Cause No. 18SL-AC02068
	)	Division No. 44T
PORTER HEALTH & FITNESS, LLC,	)	
d/b/a "9Round Wildwood," et al.	)	JURY TRIAL DEMANDED
	)	
Defendants.	)	

**DEFENDANT PORTER HEALTH & FITNESS, LLC'S ANSWER**

COMES NOW Defendant, Porter Health & Fitness, LLC d/b/a "9Round Wildwood" ("Porter") and for its Answer to Plaintiff's Petition states and alleges as follows:

1. Porter is without knowledge or information sufficient to form a belief as to the truth of the matters alleged in paragraph 1 and therefore denies the same.
2. Porter admits that the petition seeks actual and punitive damages for an alleged invasion of privacy, but denies that it is liable to Plaintiff for any such invasion of privacy or for any actual or punitive damages.
3. Porter admits that Plaintiff demands a trial by jury. Porter also demands a trial by jury.
4. To the extent the allegations of paragraph 4 are directed at Porter, Porter denies the same.
5. Porter is without knowledge or information sufficient to form a belief as to the truth of the matters alleged in paragraph 5 and therefore denies the same.

6. Porter admits that Plaintiff is a natural person, but is without knowledge or information sufficient to form a belief as to the truth of the matters otherwise alleged in paragraph 6 and therefore denies the same.

7. Porter admits that it is a Missouri limited liability company but denies the remaining allegations set forth in paragraph 7.

8. Admitted.

9. Porter admits that it is an independent franchisee of 9Round Franchising, LLC. Porter denies the remaining allegations set forth in paragraph 9.

10. Paragraph 10 does not allege any facts, but merely states a legal conclusion to which no response is required. To the extent any response is required, Porter admits that Plaintiff is an individual, a natural person, but denies the remaining allegations, if any, set forth in paragraph 10.

11. Paragraph 11 does not allege any facts, but merely states a legal conclusion to which no response is required. To the extent any response is required, and to the extent the reference to "Defendant" in paragraph 11 is directed at Porter, Porter denies the allegations, if any, set forth in paragraph 11.

12. Paragraph 12 does not allege any facts, but merely states a legal conclusion to which no response is required. To the extent the reference to "Defendant" in paragraph 12 is directed at Porter, Porter admits that its employees from time to time make and receive telephone calls, but Porter otherwise denies the vague allegations, if any, set forth in paragraph 12.

13. Paragraph 13 does not allege any facts, but merely states a legal conclusion to which no response is required. To the extent the reference to "Defendant" in paragraph 13 is

directed at Porter, Porter admits that its employees from time to time make and receive telephone calls, but Porter otherwise denies the vague allegations, if any, set forth in paragraph 13.

14. Paragraph 14 does not allege any facts, but merely states a legal conclusion to which no response is required. To the extent the reference to “Defendant” in paragraph 14 is directed at Porter, Porter denies the vague allegations, if any, set forth in paragraph 14.

15. To the extent the reference to “Defendant” in paragraph 15 is directed at Porter, Porter denies the allegations of paragraph 15.

16. Porter is without knowledge or information sufficient to form a belief as to the truth of the matters otherwise alleged in paragraph 16 and therefore denies the same.

17. Porter denies that it has ever telephoned Plaintiff’s cellular phone using an automatic telephone dialing system and left pre-recorded messages on Plaintiff’s answering service in violation of the TCPA.

18. Porter admits that Plaintiff breached her gym membership agreement and that she still owes a balance, plus attorney’s fees, and interest as a result of said breach, but otherwise denies the allegations set forth in paragraph 18.

19. Porter is without knowledge or information sufficient to form a belief as to the truth of the matters otherwise alleged in paragraph 19 and therefore denies the same.

20. Porter is without knowledge or information sufficient to form a belief as to the truth of the matters otherwise alleged in paragraph 20 and therefore denies the same.

21. Porter denies that the phone numbers referenced in paragraph 21 are Porter’s phone numbers.

22. Porter is without knowledge or information sufficient to form a belief as to the truth of the matters otherwise alleged in paragraph 22 and therefore denies the same. By way of

further answer, Porter states that the telephone number referenced in paragraph 22 is not Porter's phone number.

23. Porter is without knowledge or information sufficient to form a belief as to the truth of the matters otherwise alleged in paragraph 23 and therefore denies the same.

24. Porter is without knowledge or information sufficient to form a belief as to the truth of the matters otherwise alleged in paragraph 24 and therefore denies the same.

25. Denied.

26. Porter is without knowledge or information sufficient to form a belief as to the truth of the matters otherwise alleged in paragraph 26 and therefore denies the same.

27. Porter is without knowledge or information sufficient to form a belief as to the truth of the matters otherwise alleged in paragraph 27 and therefore denies the same. Porter specifically denies that *it* ever used an automatic telephone dialing system and that any number registered to it was ever involved in placing any call to Plaintiff from an automatic telephone dialing system.

28. Porter is without knowledge or information sufficient to form a belief as to the truth of the matters otherwise alleged in paragraph 28 and therefore denies the same. Porter specifically denies that *it* has a "dialing system" with "the capacity to store, dial, and generate phone numbers such as Plaintiff's."

29. Porter is without knowledge or information sufficient to form a belief as to the truth of the matters otherwise alleged in paragraph 29 and therefore denies the same.

30. Denied as to Porter. As to 9Round Franchising, LLC, Porter is without knowledge or information sufficient to form a belief as to the truth of the matters otherwise alleged in paragraph 30 and therefore denies the same.

31. Denied as to Porter. As to 9Round Franchising, LLC, Porter is without knowledge or information sufficient to form a belief as to the truth of the matters otherwise alleged in paragraph 31 and therefore denies the same.

32. Denied as to Porter. As to 9Round Franchising, LLC, Porter is without knowledge or information sufficient to form a belief as to the truth of the matters otherwise alleged in paragraph 32 and therefore denies the same.

33. Denied as to Porter. As to 9Round Franchising, LLC, Porter is without knowledge or information sufficient to form a belief as to the truth of the matters otherwise alleged in paragraph 33 and therefore denies the same.

34. Porter re-alleges and incorporates by reference all prior responses to the numbered paragraphs set forth above.

35. Denied as to Porter. As to 9Round Franchising, LLC, Porter is without knowledge or information sufficient to form a belief as to the truth of the matters otherwise alleged in paragraph 35 and therefore denies the same.

36. Porter re-alleges and incorporates by reference all prior responses to the numbered paragraphs set forth above.

37. Denied.

WHEREFORE, Defendant Porter Health & Fitness, LLC prays for judgment in its favor on all counts of Plaintiff's Petition, for its attorneys' fees and costs expended herein, pre-judgment and post-judgment interest at the highest contractual or statutory rate allowed, as applicable, together with such other and further relief as the Court deems just and proper under the circumstances.

Respectfully submitted,

THE McDONOUGH LAW FIRM, LLC

By: /s/ W. Christopher McDonough  
W. Christopher McDonough, # 49648  
16640 Chesterfield Grove Road, Suite 125  
Chesterfield, Missouri 63005  
636.530.1815 - telephone  
636.530.1816 - facsimile  
E-mail: wcm@mcdlawfirm.net  
*Attorney for Porter Health & Fitness, LLC*

#### **CERTIFICATE OF SERVICE**

The undersigned certifies that the foregoing was electronically filed and served on all counsel of record via the Missouri Courts electronic case filing system this 16th day of April, 2018. The undersigned attorney certifies pursuant to Rule 55.03(a) that he signed an original of this pleading.

/s/ W. Christopher McDonough



IN THE CIRCUIT COURT  
SAINT LOUIS COUNTY  
STATE OF MISSOURI  
ASSOCIATE DIVISION

RACHEL SAUNDERS,  
  
Plaintiff,  
  
v.  
  
PORTER HEALTH & FITNESS, LLC ET AL  
  
Defendant

)  
)  
)  
) Cause No. 18SL-AC02068  
)  
) Division 44T  
)  
)  
)

**REQUEST TO WITHDRAW SUMMONS**

**COMES NOW**, undersigned counsel, pursuant to Local Rules, and hereby requests that the following original summons be withdrawn because they expired before service:

(1) PORTER HEALTH & FITNESS, LLC.

(2) 9ROUND FRANCHISING, LLC

Respectfully submitted by,

Date 3/13/2017

**PONTELLO & BRESSLER**  
/s/ Dominic M. Pontello  
DOMINIC M. PONTELLO. #60947  
Pontello & Bressler  
406 Boones Lick Rd  
St. Charles, Missouri 63301  
(636) 896-4170  
(636) 246-0141 facsimile

*Attorney for Plaintiff*



## IN THE 21ST JUDICIAL CIRCUIT COURT, ST. LOUIS COUNTY, MISSOURI

Judge or Division: RICHARD M STEWART	Case Number: 18SL-AC02068
Plaintiff/Petitioner: RACHEL SAUNDERS	Plaintiff/Petitioner's Attorney/Address: DOMINIC M. PONTELLO 406 BOONES LICK ROAD SAINT CHARLES, MO 63301 (636) 896-4170
Defendant/Respondent: PORTER HEALTH & FITNESS, LLC DBA: 9ROUND WILDWOOD	Date, Time and Location of Court Appearance: 24-APR-2018, 09:00 AM RM. 286 NORTH, DIV 44T ST LOUIS COUNTY COURT BUILDING 105 SOUTH CENTRAL AVENUE CLAYTON, MO 63105
Nature of Suit: AC Other Tort	

(Date File Stamp)

## Associate Division Alias Summons

The State of Missouri to: PORTER HEALTH &amp; FITNESS, LLC

Alias:

DBA: 9ROUND WILDWOOD

R/A: BRIAN PORTER  
5457 MIRASOL MANOR WAY  
EUREKA, MO 63025

COURT SEAL OF



ST. LOUIS COUNTY

You are summoned to appear before this court on the date, time, and location above to answer the attached petition. If you fail to do so, judgment by default will be taken against you for the relief demanded in the petition. You may be permitted to file certain responsive pleadings, pursuant to Chapter 517 RSMo. Should you have any questions regarding responsive pleadings in this case, you should consult an attorney.

**SPECIAL NEEDS:** If you have special needs addressed by the Americans With Disabilities Act, please notify the Office of the Circuit Clerk at 314-615-8029, FAX 314-615-8739 or TTY at 314-615-4567, at least three business days in advance of the court proceeding.

ISSUE DATE: 03/13/2018

Date

Further Information:  
JB

Clerk

## Sheriff's or Server's Return

**Note to serving officer:** Service must not be made less than ten days nor more than sixty days from the date the Defendant/Respondent is to appear in court.

I certify that I have served the above summons by: (check one)

- ☐ delivering a copy of the summons and a copy of the petition to the Defendant/Respondent.
- ☐ leaving a copy of the summons and a copy of the petition at the dwelling place or usual abode of the Defendant/Respondent with \_\_\_\_\_ a person of the Defendant's/Respondent's family over the age of 15 years.
- ☐ (for service on a corporation) delivering a copy of the summons and a copy of the petition to \_\_\_\_\_ (name) \_\_\_\_\_ (title).
- ☐ other \_\_\_\_\_

Served at \_\_\_\_\_ (address)

in \_\_\_\_\_ (County/City of St. Louis), MO, on \_\_\_\_\_ (date) at \_\_\_\_\_ (time).

Printed Name of Sheriff or Server

Signature of Sheriff or Server

**Must be sworn before a notary public if not served by an authorized officer:**

(Seal)

Subscribed and sworn to before me on \_\_\_\_\_ (date).

My commission expires: \_\_\_\_\_

Date

Notary Public

## Sheriff's Fees

Summons	\$ _____
Non Est	\$ _____
Sheriff's Deputy Salary	
Supplemental Surcharge	\$ 10.00
Mileage	\$ _____ ( _____ miles @ \$. _____ per mile)
<b>Total</b>	\$ _____

A copy of the summons and a copy of the petition must be served on **each** Defendant/Respondent. For methods of service on all classes of suits, see Supreme Court Rule 54.



## IN THE 21ST JUDICIAL CIRCUIT COURT, ST. LOUIS COUNTY, MISSOURI

Judge or Division: RICHARD M STEWART	Case Number: 18SL-AC02068
Plaintiff/Petitioner: RACHEL SAUNDERS	Plaintiff's/Petitioner's Attorney/Address or Pro Se's Address/Telephone Number: DOMINIC M. PONTELLO 406 BOONES LICK ROAD SAINT CHARLES, MO 63301 (636) 896-4170
Defendant/Respondent: PORTER HEALTH & FITNESS, LLC DBA: 9ROUND WILDWOOD	
Nature of Suit: AC Other Tort	Date, Time and Location of Court Appearance: 24-APR-2018 09:00 AM RM. 286 NORTH, DIV 44T ST LOUIS COUNTY COURT BUILDING 105 SOUTH CENTRAL AVENUE CLAYTON, MO 63105

(Date File Stamp)

**Summons for Personal Service Outside the State of Missouri**  
(Associate Division Cases)

The State of Missouri to: 9ROUND FRANCHISING, LLC

Alias:

NATIONAL CORP. RESEARCH, LTD.  
2 OFFICE PARK COURT, SUITE 103  
COLUMBIA, SC 29223

You are summoned to appear before this Circuit Court, Associate Division on the date, time and location above, to answer the allegation in the petition filed by the above-named Plaintiff/Petitioner, a copy of which is attached. If you fail to appear at the time and place stated in this summons, judgment by default will be taken against you for the relief demanded in the petition.

COURT SEAL OF



ST. LOUIS COUNTY

**SPECIAL NEEDS:** If you have special needs addressed by the Americans With Disabilities Act, please notify the Office of the Circuit Clerk at 314-615-8029, FAX 314-615-8739 or TTY at 314-615-4567, at least three business days in advance of the court proceeding.

ISSUE DATE: 03/13/2018

Date

*Joan P. Delaney*  
Clerk

Further Information:  
JB

**Officer's or Server's Affidavit of Service**

**Note to serving officer:** Service must not be made less than ten days nor more than sixty days from the date the Defendant/Respondent is to appear in court.

I certify that:

- I am authorized to serve process in civil actions within the state or territory where the above summons was served.
- My official title is \_\_\_\_\_ of \_\_\_\_\_ County, \_\_\_\_\_ (state).
- I have served the above summons by: (check one)
  - ☐ delivering a copy of the summons and a copy of the petition to the Defendant/Respondent.
  - ☐ leaving a copy of the summons and a copy of the petition at the dwelling place or usual abode of the Defendant/Respondent with \_\_\_\_\_, a person of the Defendant's/Respondent's family over the age of 15 years.
  - ☐ (for service on a corporation) delivering a copy of the summons and a copy of the petition to \_\_\_\_\_ (name) \_\_\_\_\_ (title).
  - ☐ other (describe) \_\_\_\_\_.

Served at \_\_\_\_\_ (address)  
in \_\_\_\_\_ County, \_\_\_\_\_ (state), on \_\_\_\_\_ (date) at \_\_\_\_\_ (time).

Printed Name of Sheriff or Server

Signature of Sheriff or Server

Subscribed and Sworn to before me this \_\_\_\_\_ (date).

I am: (check one)

- ☐ the clerk of the court of which affiant is an officer.
- ☐ the judge of the court of which affiant is an officer.
- ☐ authorized to administer oaths in the state in which the affiant served the above summons. (use for out-of-state officer)
- ☐ authorized to administer oaths. (use for court-appointed server)

(Seal)

Signature and Title

**Summons Fees, if applicable**

Summons \$ \_\_\_\_\_  
Non Est \$ \_\_\_\_\_  
Mileage \$ \_\_\_\_\_ ( \_\_\_\_\_ miles @ \$ . \_\_\_\_\_ per mile)  
Total \$ \_\_\_\_\_

See the following page for directions to clerk and to officer making return on service of summons.

**Directions to Clerk**

Personal service outside the State of Missouri is permitted only on the conditions set out in Rule 54. The clerk should insert in the summons the names of only the Defendant/Respondent or Defendants/Respondents who are to be personally served by the officer to whom the summons is delivered. The summons should be signed by the clerk or deputy clerk under the seal of the court and a copy of the summons and a copy of the motion and/or petition for each Defendant/Respondent should be mailed along with the original summons to the officer who is to make service. The copy of the summons may be a carbon or other copy and should be signed and sealed in the same manner as the original but it is unnecessary to certify that the copy is a true copy. The copy of the motion and/or petition may be a carbon or other copy and should be securely attached to the copy of the summons but need not be certified a true copy. If the Plaintiff/Petitioner has no attorney, Plaintiff's/Petitioner's address and telephone number should be stated in the appropriate field in the summons. This form is not for use in attachment actions. (See Rule 54.06, 54.07 and 54.14)

**Directions to Officer Making Return on Service of Summons**

A copy of the summons and a copy of the motion and/or petition must be served on each Defendant/Respondent. If any Defendant/Respondent refuses to receive the copy of the summons and motion and/or petition when offered to him, the return shall be prepared to show the offer of the officer to deliver the summons and motion and/or petition and the Defendant's/Respondent's refusal to receive the same.

Service shall be made: (1) On Individual. On an individual, including an infant or incompetent person not having a legally appointed guardian, by delivering a copy of the summons and motion and/or petition to the individual personally or by leaving a copy of the summons and motion and/or petition at the individual's dwelling house or usual place of abode with some person of the family over 15 years of age, or by delivering a copy of the summons and motion and/or petition to an agent authorized by appointment or required by law to receive service of process; (2) On Guardian. On an infant or incompetent person who has a legally appointed guardian, by delivering a copy of the summons and motion and/or petition to the guardian personally; (3) On Corporation, Partnership or Other Unincorporated Association. On a corporation, partnership or unincorporated association, by delivering a copy of the summons and motion and/or petition to an officer, partner, or managing or general agent, or by leaving the copies at any business office of the Defendant/Respondent with the person having charge thereof or by delivering copies to its registered agent or to any other agent authorized by appointment or required by law to receive service of process; (4) On Public or Quasi-Public Corporation or Body. On a public, municipal, governmental or quasi-public corporation or body in the case of a county, to the mayor or city clerk or city attorney in the case of a city, to the chief executive officer in the case of any public, municipal, governmental, or quasi-public corporation or body or to any person otherwise lawfully so designated.

Service may be made by an officer or deputy authorized by law to serve process in civil actions within the state or territory where such service is made.

Service may be made in any state or territory in the United States. If served in a territory, substitute the word "territory" for the word "state."

The officer making the service must swear an affidavit before the clerk, deputy clerk, or judge of the court of which the person is an officer or other person authorized to administer oaths. This affidavit must state the time, place, and manner of service, the official character of the affiant, and the affiant's authority to serve process in civil actions within the state or territory where service is made.

Service must not be made less than ten days nor more than sixty days from the date the Defendant/Respondent is to appear in court. The return should be made promptly, and in any event so that it will reach the Missouri Court within 30 days after service.

IN THE CIRCUIT COURT  
SAINT LOUIS COUNTY  
STATE OF MISSOURI  
ASSOCIATE DIVISION

RACHEL SAUNDERS,  
Plaintiff,  
v.  
PORTER HEALTH & FITNESS, LLC ET AL  
Defendant

)  
)  
)  
) Cause No. 18SL-AC02068  
)  
) Division 44T  
)  
)  
)

**REQUEST FOR ALIAS SUMMONS**

COMES NOW, undersigned counsel, pursuant to Local Rules, and hereby requests that an alias summons be issued by the circuit clerk in this case, because the first summons expired before service. I am requesting an alias summons be issued for the following defendants:

- (1) PORTER HEALTH & FITNESS, LLC.
- (2) 9ROUND FRANCHISING, LLC

Respectfully submitted by,

Date 3/13/2017

**PONTELLO & BRESSLER**

/s/ Dominic M. Pontello  
DOMINIC M. PONTELLO. #60947  
Pontello & Bressler  
406 Boones Lick Rd  
St. Charles, Missouri 63301  
(636) 896-4170  
(636) 246-0141 facsimile

*Attorney for Plaintiff*



## IN THE 21ST JUDICIAL CIRCUIT COURT, ST. LOUIS COUNTY, MISSOURI

Judge or Division: RICHARD M STEWART	Case Number: 18SL-AC02068
Plaintiff/Petitioner: RACHEL SAUNDERS	Plaintiff's/Petitioner's Attorney/Address: DOMINIC M. PONTELLO 406 BOONES LICK ROAD SAINT CHARLES, MO 63301 (636) 896-4170
Defendant/Respondent: PORTER HEALTH & FITNESS, LLC DBA: 9ROUND WILDWOOD	Date, Time and Location of Court Appearance: <b>13-MAR-2018, 09:00 AM</b> <b>RM. 286 NORTH, DIV 44T</b> <b>ST LOUIS COUNTY COURT BUILDING</b> <b>105 SOUTH CENTRAL AVENUE</b> <b>CLAYTON, MO 63105</b>
Nature of Suit: AC Other Tort	

(Date File Stamp)

## Associate Division Summons

The State of Missouri to: **PORTER HEALTH & FITNESS, LLC**  
**DBA: 9ROUND WILDWOOD**

R/A: BRIAN PORTER  
5457 MIRASOL MANOR WAY  
EUREKA, MO 63025

COURT SEAL OF



ST. LOUIS COUNTY

You are summoned to appear before this court on the date, time, and location above to answer the attached petition. If you fail to do so, judgment by default will be taken against you for the relief demanded in the petition. You may be permitted to file certain responsive pleadings, pursuant to Chapter 517 RSMo. Should you have any questions regarding responsive pleadings in this case, you should consult an attorney.

**SPECIAL NEEDS:** If you have special needs addressed by the Americans With Disabilities Act, please notify the Office of the Circuit Clerk at 314-615-8029, FAX 314-615-8739 or TTY at 314-615-4567, at least three business days in advance of the court proceeding.

1-26-18

Date

Further Information:  
AD

*[Signature]*  
Clerk

## Sheriff's or Server's Return

**Note to serving officer:** Service must not be made less than ten days nor more than sixty days from the date the Defendant/Respondent is to appear in court.

I certify that I have served the above summons by: (check one)

- ☐ delivering a copy of the summons and a copy of the petition to the Defendant/Respondent.
- ☐ leaving a copy of the summons and a copy of the petition at the dwelling place or usual abode of the Defendant/Respondent with \_\_\_\_\_ a person of the Defendant's/Respondent's family over the age of 15 years.
- ☐ (for service on a corporation) delivering a copy of the summons and a copy of the petition to \_\_\_\_\_ (name) \_\_\_\_\_ (title).
- ☐ other \_\_\_\_\_

Served at \_\_\_\_\_ (address)

in \_\_\_\_\_ (County/City of St. Louis), MO, on \_\_\_\_\_ (date) at \_\_\_\_\_ (time).

Printed Name of Sheriff or Server

Signature of Sheriff or Server

**Must be sworn before a notary public if not served by an authorized officer:**

(Seal)

Subscribed and sworn to before me on \_\_\_\_\_ (date).

My commission expires: \_\_\_\_\_

Date

Notary Public

## Sheriff's Fees, if applicable

Summons \$ \_\_\_\_\_

Non Est \$ \_\_\_\_\_

Sheriff's Deputy Salary \$ \_\_\_\_\_

Supplemental Surcharge \$ 10.00

Mileage \$ \_\_\_\_\_ (\_\_\_\_\_ miles @ \$.\_\_\_\_\_ per mile)

**Total** \$ \_\_\_\_\_

A copy of the summons and a copy of the petition must be served on **each** Defendant/Respondent. For methods of service on all classes of suits, see Supreme Court Rule 54.





## IN THE 21ST JUDICIAL CIRCUIT COURT, ST. LOUIS COUNTY, MISSOURI

Judge or Division: RICHARD M STEWART	Case Number: 18SL-AC02068
Plaintiff/Petitioner: RACHEL SAUNDERS	Plaintiff's/Petitioner's Attorney/Address or Pro Se's Address/Telephone Number: DOMINIC M. PONTELLO 406 BOONES LICK ROAD SAINT CHARLES, MO 63301 (636) 896-4170
Defendant/Respondent: PORTER HEALTH & FITNESS, LLC DBA: 9ROUND WILDWOOD	vs.
Nature of Suit: AC Other Tort	Date, Time and Location of Court Appearance: 13-MAR-2018 09:00 AM RM. 286 NORTH, DIV 44T ST LOUIS COUNTY COURT BUILDING 105 SOUTH CENTRAL AVENUE CLAYTON, MO 63105

(Date File Stamp)

**Summons for Personal Service Outside the State of Missouri**  
(Associate Division Cases)

The State of Missouri to: 9ROUND FRANCHISING, LLC  
Alias:  
NATIONAL CORP. RESEARCH, LTD.  
2 OFFICE PARK COURT, SUITE 103  
COLUMBIA, SC 29223

**COURT SEAL OF**  
  
**ST. LOUIS COUNTY**

You are summoned to appear before this Circuit Court, Associate Division on the date, time and location above, to answer the allegation in the petition filed by the above-named Plaintiff/Petitioner, a copy of which is attached. If you fail to appear at the time and place stated in this summons, judgment by default will be taken against you for the relief demanded in the petition.

**SPECIAL NEEDS:** If you have special needs addressed by the Americans With Disabilities Act, please notify the Office of the Circuit Clerk at 314-615-8029, FAX 314-615-8739 or TTY at 314-615-4567, at least three business days in advance of the court proceeding.

1-26-18  
Date

Clerk

Further Information:  
AD

**Officer's or Server's Affidavit of Service**

**Note to serving officer:** Service must not be made less than ten days nor more than sixty days from the date the Defendant/Respondent is to appear in court.

I certify that:

- I am authorized to serve process in civil actions within the state or territory where the above summons was served.
- My official title is \_\_\_\_\_ of \_\_\_\_\_ County, \_\_\_\_\_ (state).
- I have served the above summons by: (check one)
  - ☐ delivering a copy of the summons and a copy of the petition to the Defendant/Respondent.
  - ☐ leaving a copy of the summons and a copy of the petition at the dwelling place or usual abode of the Defendant/Respondent with \_\_\_\_\_, a person of the Defendant's/Respondent's family over the age of 15 years.
  - ☐ (for service on a corporation) delivering a copy of the summons and a copy of the petition to \_\_\_\_\_ (name) \_\_\_\_\_ (title).
  - ☐ other (describe) \_\_\_\_\_

Served at \_\_\_\_\_ (address)  
in \_\_\_\_\_ County, \_\_\_\_\_ (state), on \_\_\_\_\_ (date) at \_\_\_\_\_ (time).

Printed Name of Sheriff or Server

Signature of Sheriff or Server

Subscribed and Sworn to before me this \_\_\_\_\_ (date).

- I am: (check one)
- ☐ the clerk of the court of which affiant is an officer.
  - ☐ the judge of the court of which affiant is an officer.
  - ☐ authorized to administer oaths in the state in which the affiant served the above summons. (use for out-of-state officer)
  - ☐ authorized to administer oaths. (use for court-appointed server)

(Seal)

Signature and Title

**Summons Fees, if applicable**

Summons \$ \_\_\_\_\_  
Non Est \$ \_\_\_\_\_  
Mileage \$ \_\_\_\_\_ ( \_\_\_\_\_ miles @ \$ . \_\_\_\_\_ per mile)  
Total \$ \_\_\_\_\_

See the following page for directions to clerk and to officer making return on service of summons.

**Directions to Clerk**

Personal service outside the State of Missouri is permitted only on the conditions set out in Rule 54. The clerk should insert in the summons the names of only the Defendant/Respondent or Defendants/Respondents who are to be personally served by the officer to whom the summons is delivered. The summons should be signed by the clerk or deputy clerk under the seal of the court and a copy of the summons and a copy of the motion and/or petition for each Defendant/Respondent should be mailed along with the original summons to the officer who is to make service. The copy of the summons may be a carbon or other copy and should be signed and sealed in the same manner as the original but it is unnecessary to certify that the copy is a true copy. The copy of the motion and/or petition may be a carbon or other copy and should be securely attached to the copy of the summons but need not be certified a true copy. If the Plaintiff/Petitioner has no attorney, Plaintiff's/Petitioner's address and telephone number should be stated in the appropriate field in the summons. This form is not for use in attachment actions. (See Rule 54.06, 54.07 and 54.14)

**Directions to Officer Making Return on Service of Summons**

A copy of the summons and a copy of the motion and/or petition must be served on each Defendant/Respondent. If any Defendant/Respondent refuses to receive the copy of the summons and motion and/or petition when offered to him, the return shall be prepared to show the offer of the officer to deliver the summons and motion and/or petition and the Defendant's/Respondent's refusal to receive the same.

Service shall be made: (1) On Individual. On an individual, including an infant or incompetent person not having a legally appointed guardian, by delivering a copy of the summons and motion and/or petition to the individual personally or by leaving a copy of the summons and motion and/or petition at the individual's dwelling house or usual place of abode with some person of the family over 15 years of age, or by delivering a copy of the summons and motion and/or petition to an agent authorized by appointment or required by law to receive service of process; (2) On Guardian. On an infant or incompetent person who has a legally appointed guardian, by delivering a copy of the summons and motion and/or petition to the guardian personally; (3) On Corporation, Partnership or Other Unincorporated Association. On a corporation, partnership or unincorporated association, by delivering a copy of the summons and motion and/or petition to an officer, partner, or managing or general agent, or by leaving the copies at any business office of the Defendant/Respondent with the person having charge thereof or by delivering copies to its registered agent or to any other agent authorized by appointment or required by law to receive service of process; (4) On Public or Quasi-Public Corporation or Body. On a public, municipal, governmental or quasi-public corporation or body in the case of a county, to the mayor or city clerk or city attorney in the case of a city, to the chief executive officer in the case of any public, municipal, governmental, or quasi-public corporation or body or to any person otherwise lawfully so designated.

Service may be made by an officer or deputy authorized by law to serve process in civil actions within the state or territory where such service is made.

Service may be made in any state or territory in the United States. If served in a territory, substitute the word "territory" for the word "state."

The officer making the service must swear an affidavit before the clerk, deputy clerk, or judge of the court of which the person is an officer or other person authorized to administer oaths. This affidavit must state the time, place, and manner of service, the official character of the affiant, and the affiant's authority to serve process in civil actions within the state or territory where service is made.

Service must not be made less than ten days nor more than sixty days from the date the Defendant/Respondent is to appear in court. The return should be made promptly, and in any event so that it will reach the Missouri Court within 30 days after service.

18SL-AC02068

In the  
**CIRCUIT COURT**  
 Of St. Louis County, Missouri



For File Stamp Only

RACHEL SAUNDERS  
 Plaintiff/Petitioner

January 19, 2018  
 Date

vs.

PORTER HEALTH & FITNESS, LLC ET ALL  
 Defendant/Respondent

Case Number

Division

**REQUEST FOR APPOINTMENT OF PROCESS SERVER**

Comes now PLAINTIFF RACHEL SAUNDERS, pursuant  
 Requesting Party

to Local Rule 28, and at his/her/its own risk requests the appointment of the Circuit Clerk of

SERVICES RENDERED, INC., LAWRENCE ROTH, MARYBETH RICE, RICHARD LANGDON, DARREN THEBEAU, PAT MEDLEY, KIM RICE, RICHARD RAYMOND, RICHARD HOPSON  
 Name of Process Server Address Telephone

1528 SOUTH BIG BEND, ST LOUIS MO 63117  
 Name of Process Server Address or in the Alternative Telephone

314-918-0448  
 Name of Process Server Address or in the Alternative Telephone

Natural person(s) of lawful age to serve the summons and petition in this cause on the below named parties. This appointment as special process server does not include the authorization to carry a concealed weapon in the performance thereof.

**SERVE:**

PORTER HEALTH & FITNESS, LLC C/O BRIAN PORTER, R/A  
 Name  
5457 MIRASOL MANOR WAY  
 Address  
EUREKA, MO 63025  
 City/State/Zip

**SERVE:**

\_\_\_\_\_  
 Name  
 \_\_\_\_\_  
 Address  
 \_\_\_\_\_  
 City/State/Zip

Appointed as requested:

**JOAN M. GILMER**, Circuit Clerk

By \_\_\_\_\_  
 Deputy Clerk

\_\_\_\_\_  
 Date

**SERVE:**

\_\_\_\_\_  
 Name  
 \_\_\_\_\_  
 Address  
 \_\_\_\_\_  
 City/State/Zip

**SERVE:**

\_\_\_\_\_  
 Name  
 \_\_\_\_\_  
 Address  
 \_\_\_\_\_  
 City/State/Zip

/S/ DOMINIC PONTELLO

Signature of Attorney/Plaintiff/Petitioner

60947

Bar No.

406 BOONES LICK RD, ST CHARLES, MO 63301

Address

(636) 896-4170

Phone No.

(636) 246-0141

Fax No.

18SL-AC02068

In the  
**CIRCUIT COURT**  
 Of St. Louis County, Missouri



For File Stamp Only

RACHEL SAUNDERS  
 Plaintiff/Petitioner

January 19, 2018  
 Date

vs.

PORTER HEALTH & FITNESS, LLC  
 Defendant/Respondent

Case Number

Division

**REQUEST FOR APPOINTMENT OF PROCESS SERVER**

Comes now PLAINTIFF RACHEL SAUNDERS, pursuant  
 Requesting Party

to Local Rule 28, and at his/her/its own risk requests the appointment of the Circuit Clerk of  
CAPITOL CITY INVESTIGATIONS AND PROCESS SERVICE LLC, DONNIE ELGIN, CONNIE ELGIN  
 Name of Process Server Address Telephone

1312 OLD CHEROKEE RD. LEXINGTON, SC 29072  
 Name of Process Server Address or in the Alternative Telephone

803-600-5809  
 Name of Process Server Address or in the Alternative Telephone

Natural person(s) of lawful age to serve the summons and petition in this cause on the below  
 named parties. This appointment as special process server does not include the authorization  
 to carry a concealed weapon in the performance thereof.

**SERVE:**

GROUND FRANCHISING, LLC, C/O NATIONAL CORPORATE RESEARCH, LTD, R/A  
 Name  
2 OFFICE PARK COURT SUITE 103  
 Address  
COLUMBIA, SC 29223  
 City/State/Zip

**SERVE:**

\_\_\_\_\_  
 Name  
 \_\_\_\_\_  
 Address  
 \_\_\_\_\_  
 City/State/Zip

Appointed as requested:

**JOAN M. GILMER**, Circuit Clerk

By \_\_\_\_\_  
 Deputy Clerk

\_\_\_\_\_  
 Date

**SERVE:**

\_\_\_\_\_  
 Name  
 \_\_\_\_\_  
 Address  
 \_\_\_\_\_  
 City/State/Zip

**SERVE:**

\_\_\_\_\_  
 Name  
 \_\_\_\_\_  
 Address  
 \_\_\_\_\_  
 City/State/Zip

/S/ DOMINIC PONTELLO  
 Signature of Attorney/Plaintiff/Petitioner  
60947  
 Bar No.  
406 BOONES LICK RD, ST CHARLES, MO 63301  
 Address  
(636) 896-4170 (636) 246-0141  
 Phone No. Fax No.

IN THE CIRCUIT COURT  
SAINT LOUIS COUNTY  
STATE OF MISSOURI  
ASSOCIATE DIVISION

**RACHEL SAUNDERS,**

Plaintiff,

v.

**PORTER HEALTH & FITNESS, LLC**

D/B/A

**9ROUND WILDWOOD,**

Serve at:

BRIAN PORTER, R/A

5457 MIRASOL MANOR WAY

EUREKA, MO 63025

and,

**9ROUND FRANCHISING, LLC**

Serve at:

NATIONAL CORPORATE RESEARCH, LTD

2 OFFICE PARK COURT SUITE 103

COLUMBIA, SC 29223

Defendant.

Cause No.

Division

**JURY TRIAL DEMANDED**

**PETITION**

COMES NOW, Plaintiff, Rachel Saunders, and for her Petition states as follows:

**INTRODUCTION**

1. This is an action for statutory damages brought by an individual consumer for violations of the Telephone Consumer Protection Act of 1991("TCPA"), 47 USC 227 *et. Seq.*
2. This is an action for actual and punitive damages brought by an individual consumer for invasion of privacy.

3. Plaintiff demands a trial by jury on all issues so triable.

### **JURISDICTION**

4. This Court has jurisdiction of the TCPA claim under 47 U.S.C. § 227 (3)(b).

Venue is appropriate in this Court because Defendants 9Round Wildwood and 9Round Franchising LLC, placed prohibited telephone calls to Plaintiff at Plaintiff's phone located in St. Louis County, Missouri.

5. This Court has jurisdiction of the claim of invasion of privacy because the conduct giving rise to the claim occurred in St. Louis County, Missouri.

### **PARTIES**

6. Plaintiff is a natural person currently residing in St. Louis County, Missouri.

7. Defendant 9Round Wildwood is a domestic limited liability company with its principal place of business in St. Louis, MO.

8. Defendant 9Round Franchising LLC is a foreign limited liability company with its principal place of business in Columbia, SC.

9. Upon information and belief, Defendant 9Round Wildwood is a local franchise of the parent company, Defendant 9Round Franchising LLC, and both act in conjunction in the attempted collection of delinquent accounts, by the local franchise providing membership information to the franchising parent directing the parent company to take steps to collect delinquent accounts, including the placement of automated and pre-recorded telephone calls.

### ***Telephone Consumer Protection Act***

10. At all times relevant to this complaint, the Plaintiff was and is a "person" as defined by the TCPA 47 U.S.C. § 153(39).

11. At all times relevant to this complaint, Defendant has owned, operated, and or



controlled “customer premises equipment” as defined by the TCPA 47 U.S.C. § 153(16) that originated, routed, and/or terminated telecommunications.

12. Defendant at all times relevant to the complaint herein engages in “telecommunications” as defined by the TCPA 47 U.S.C. § 153(50).

13. Defendant at all times relevant to the complaint herein engages in “interstate communications” as defined by the TCPA 47 U.S.C. § 153(28).

14. At all times relevant to this complaint, Defendant has used, controlled, and/or operated “wire communications” as defined by the TCPA 47 U.S.C. § 153(59), that existed as instrumentalities of interstate and intrastate commerce.

15. At all times relevant to this complaint, Defendant has used, controlled, and/or operated “automatic telephone dialing systems” as defined by the TCPA 47 U.S.C. § 227(a)(1) and 47 C.F.R. 64.1200(f)(2).

### ***Invasion of Privacy***

16. The Federal Communications Commission recognized the costs and damage to a consumer’s right to privacy that robo calls created:

Noting that Congress found that automated or prerecorded telephone calls were a greater nuisance and invasion of privacy than live solicitation calls, and that such calls can be costly and inconvenient, the Commission determined that the TCPA and its rules prohibit such calls to wireless numbers. The Commission also recognized that wireless customers are charged for incoming calls whether they pay in advance or after the minutes are used.

*In the Matter of Rules and Regulations Implementing the Telephone Consumer Protection Act of 1991*, 23 FCC Rcd 559, ¶7 (Jan. 4, 2008).

### **FACTS**

17. Within four years immediately preceding the filing of this lawsuit, Defendants

telephoned the Plaintiff's cellular phone using an automatic telephone dialing system on numerous occasions and left pre-recorded messages on the Plaintiff's answering service in violation of the TCPA.

18. Beginning in August of 2016, Defendants began attempts to collect a debt allegedly owed by Plaintiff for a cancelled gym membership. In its attempt to collect this debt, Defendants made numerous unsolicited and unauthorized phone calls to Plaintiff's cellular phone number, (314) 348-1617.

19. Plaintiff never gave her express written consent to be called on her cellular telephone by automatic dialed telephone calls or prerecorded messages.

20. Plaintiff never signed any writing containing a clear and conspicuous disclosure, as required under 47 C.F.R. § 64.1200(f)(8)(i), informing the Plaintiff that by executing an agreement, Plaintiff consents to receive phone calls delivered using an automatic telephone dialing system or an artificial or prerecorded voice.

21. Defendants' phone calls came from its numbers, 850-702-0164, and 888-304-3885.

22. On October 6, 2016, Plaintiff called Defendants at 850-702-0164 and explicitly revoked any permission or consent Defendants may have ever had to call her cellular telephone number (314) 348-1617, and instructed Defendants to never call her cellular telephone ever again.

#### ***Violations of the TCPA***

23. Defendants never obtained express written consent from Plaintiff to place telephone calls to Plaintiff's cellular phone using an automatic telephone dialing system or to send pre-recorded messages to Plaintiff's cellular phone.

24. On October 6, 2016, Plaintiff explicitly revoked any permission or consent Defendants may have ever had to call her cellular telephone number (314) 348-1617 and instructed Defendant to never call her cellular telephone ever again.

25. Plaintiff's October 6, 2016 revocation of consent to be called on her cell phone was effective against both Defendants.

26. Beginning in August of 2016, Defendants began attempts to collect the alleged debt by making numerous unsolicited and unauthorized phone calls to Plaintiff's cellular phone number, (314) 348-1617, using an automatic telephone dialing system and pre-recorded messages.

27. Defendants' phone calls for Plaintiff were placed from Defendants' automatic telephone dialing system, as defined by 47 U.S.C. § 227(a)(1), from phone numbers registered to the Defendants.

28. Specifically, Defendants' dialing system has the capacity to store, dial, and generate phone numbers such as Plaintiff's.

29. Numerous automated telephone dialing system calls and pre-recorded messages were made to Plaintiff's cellular phone and she was charged for these phone calls, in violation of 47 U.S.C. § 227(b)(1)(A)(iii).

***Invasion of Privacy – Intrusion Upon Seclusion***

30. Defendants intentionally and/or negligently interfered, physically or otherwise, with the solitude, seclusion and or private concerns or affairs of this Plaintiff by repeatedly and unlawfully attempting to collect a debt from Plaintiff by calling Plaintiff's cellular telephone without consent by Plaintiff, and thereby invaded Plaintiff's right to privacy.

31. Plaintiff had a reasonable expectation of privacy in Plaintiff's solitude, seclusion,

private concerns or affairs.

32. The conduct of Defendant in engaging in the above-described illegal collection conduct against Plaintiff, resulted in multiple intrusions and invasions of privacy by Defendant that occurred in a way that would be highly offensive to a reasonable person in that position.

33. As a result of such intrusions and invasions of privacy, Plaintiff is entitled to actual damages and punitive damages from Defendant in an amount to be determined at trial.

**COUNT I: VIOLATION OF THE TCPA – ALL DEFENDANTS**

34. Plaintiff re-alleges and incorporates by reference all prior paragraphs.

35. In its attempts to collect the alleged debt from Plaintiff, Defendants have committed violations of the TCPA, 47 USC 227 et. seq., including, but not limited to, the following:

- a. Placing non-emergency phone calls to Plaintiff's cellular phone without express authorized consent of the Plaintiff. 47 USC 227(b) (1) (A) (iii).

**WHEREFORE**, Plaintiff respectfully requests that judgment be entered against Defendants for:

- A. Judgment that Defendants' conduct violated the TCPA;
- B. Actual damages;
- C. Statutory damages pursuant to 47 USC (b)(3); and
- D. For such other relief as the Court may deem just and proper.

**COUNT II: INVASION OF PRIVACY – INTRUSION UPON SECLUSION – ALL  
DEFENDANTS**

36. Plaintiff re-alleges and incorporates by reference all prior paragraphs.

37. The aforementioned intrusion upon seclusion by Defendants was highly offensive to a reasonable person.

**WHEREFORE**, Plaintiffs respectfully request that judgment be entered against Defendants for:

- A. Actual damages;
- B. Punitive damages;
- C. Court costs;
- D. For such other relief as the Court may deem just and proper.

Respectfully submitted by,

Pontello & Bressler, LLC

/s/ Dominic M. Pontello  
Dominic M. Pontello, #60947  
Isaac J. Bressler, #66379  
Attorneys for Plaintiff  
406 Boones Lick Rd  
St. Charles, MO 63301  
(636) 896-4170  
(636) 246-0141 facsimile  
dominic@pontellolaw.com  
ibressler@pontellolaw.com

I certify and attest that the above is a true copy of the original record of the Court in case number 18SL-AC02068 as it appears on file in my office.

Issued

June 25, 2018



**JOAN M. GILMER**, Circuit Clerk  
St. Louis County Circuit Court

By Andrew R. Engler  
Deputy Clerk